

Judge McLaughlin's Procedures for Voir Dire in a Criminal Case

The Court will conduct the voir dire with input from counsel for the government and the defendant. The panel of approximately 50-60 prospective jurors will enter the courtroom and sit according to the number that appears next to their names on the print out from the jury office. This number is different from their "juror number." They will sit according to their order number - the number that reflects the order in which they were selected downstairs in the jury room. The order numbers are 1 to 50-60. They will then be asked to give their order number as they stand to respond to questions. This will allow the lawyers to keep track more easily of the prospective jurors' responses.

The Court will explain the purpose of voir dire and then begin questioning. The Court will ask questions in a way that calls for panel members to raise their hand only if their answer to the question is yes. For example, "is there anyone who for any reason thinks that they could not be fair and impartial if he or she sat as a juror in this case." I will tell the panel that if the answer to this question is yes, they should raise their hand and, when called on, state their juror number and nothing else. I will then follow-up privately with that panel member.

With some questions, I will follow-up on the prospective juror's answer in open court. For example, "is there anyone who is, or has ever been, or has a close friend or family member, who is a member of any law enforcement agency." If a panel member raises his or hand to say yes, I will follow-up with questions about the relationship and what law enforcement agency is involved.

After asking the questions to the full panel, the Court will go into the jury room with the parties and counsel for follow-up as necessary. In the jury room, the Court will ask the questions but will ask the lawyers if they would like the Court to do any follow-up. The lawyers will not talk directly to the panel member. If any party wants to request a strike for cause, he or she should do so right after the panel member leaves the jury room, rather than waiting until all the panel members have been questioned.

Under Fed. R. Crim Pro. 24(b), the government gets 6 peremptory challenges in a felony case and the defendant gets 10. If we seat two alternates, as I usually do, each side gets 1 additional peremptory (Rule 24(c)(4)).

After any individual questioning is complete, the peremptory challenges begin. A panel of 32 is needed for 12 jurors and two alternates. The deputy clerk will give to the prosecutor the list of jurors from which the peremptory challenges for the first 12 will be taken. The order of taking the challenges is as follows:

Government	Defendant
1	2
1	2
1	2
1	2
1	2
1	

The government gets the first and last strike.

Counsel will then take the peremptory challenge(s) for the alternates. If there are two alternates, and therefore one peremptory for each side, the defendant takes the first strike and then the government.

The jurors selected will then be called to the jury box by the deputy clerk. After they are all seated, the Court will ask counsel if the jurors in the box are the ones they selected, meaning only did the deputy clerk call the correct jurors into the box. Any previous objections that have been made to any decisions by the Court will be preserved.